


**MEMORANDUM**

May 30, 2003

TO: County Council

FROM:  Michael Faden, Senior Legislative Attorney

SUBJECT: **Introduction:** Bill 17-03, Personnel – Retirement – Technical Amendments

Bill 17-03, Personnel – Retirement – Technical Amendments, sponsored by the Council President at the request of the County Executive, is scheduled to be introduced June 3, 2003. A public hearing and action are tentatively scheduled for June 24 at 1:30 pm.

This bill amends the laws governing the Employees' Retirement System and Retirement Savings' Plan to include provisions that must be adopted by all qualified plans subject to Internal Revenue Code Section 401(a) and which are the subject of IRS favorable determination letters received by the County.

This packet contains:

Bill 17-03  
Legislative Request Report  
Memo from County Executive

Circle #

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Expedited Bill No. 17-03  
Concerning: Personnel – Retirement –  
Corrective Amendments  
Revised: 5/30/03 Draft No. 2  
Introduced: June 3, 2003  
Expires: December 3, 2004  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Council President at the Request of the County Executive

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**AN EXPEDITED ACT to:**

- (1) make certain technical corrections to County employee retirement laws; and
- (2) generally amend County law regarding the employee retirement system.

By amending

Montgomery County Code  
Chapter 33, Personnel and Human Resources  
Sections 33-42, 33-44, 33-118, and 33-120

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

**Section 1. Sections 33-42, 33-44, 33-118, and 33-120 are amended as follows:**

**33-42. Amount of pension at normal retirement date or early retirement date.**

\* \* \*

(h) *Maximum annual contribution to elected officials' plan.*

\* \* \*

(6) *Multiple plan participation.* This paragraph applies only for [plan] limitation years ending before January 1, 2000. Regardless of paragraph (1), the otherwise permissible annual benefits for any participant in the elected officials' plan who also participates in another qualified plan sponsored by the County or a participating agency that is a defined benefit plan must be further adjusted to the extent necessary to prevent disqualification of the plans under Section 415 of the Internal Revenue Code. Section 415 imposes the following additional limitations on the benefits payable to a participant in the elected officials' plan who also may be participating in another qualified plan of the county or any participating agency that is a defined benefit plan:

\* \* \*

**33-44. Pension payment options and cost-of-living adjustments.**

\* \* \*

(p) *Limitations Under Internal Revenue Code.* Distributions under a plan must be subject to the limitations of Section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit rules under Section 401(a)(9)(G) of the Internal Revenue Code,

in accordance with any proposed or final regulations under  
Section 401 (a)(9) of the Internal Revenue Code.

\* \* \*

**33-118. Maximum annual contribution.**

(a) *Contribution limitations.*

(1) Notwithstanding any other provision in this Division, to the extent required under the Internal Revenue Code, the annual additions described in this Section that are allocated in any [plan] limitation year to the retirement accounts of any participant must not exceed the lesser of:

(A) \$30,000, effective January 1, 1995, or \$40,000, [(the “dollar limitations”)] effective January 1, 2002, (the “dollar limitation”); or

(B) 25 percent of the participant's compensation as defined below, or 100 percent of the participant's compensation [(the “percentage limitation”)], effective January 1, 2002, (the “percentage limitation”).

\* \* \*

(3) In this Section, for purposes of applying Section 415 of the Internal Revenue Code, “compensation” has the same meaning as provided in Treasury Regulation Section 1.415-2(d)(1), including amounts contributed at the election of the participant that are not includible in the gross income of the participant, under Sections 402(g)(3), 125, [and] 457, and (effective January 1, 2001) 132 (f)(4) of the Internal Revenue Code.

\* \* \*

**33-120. Distribution of benefit.**

\* \* \*

(l) *Limitations of Internal Revenue Code Section 401(a)(9).*

Distributions under a plan must be subject to the limitations of Section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit rules in Section 401(a)(9)(G) of the Internal Revenue Code, in accordance with any proposed or final regulations under Section 401(a)(9) of the Internal Revenue Code.

\* \* \*

**Sec. 2. Expedited Effective Date.**

The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date when it becomes law.

*Approved:*


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 Michael L. Subin, President, County Council

Date

*Approved:*


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 Douglas M. Duncan, County Executive

Date

*This is a correct copy of Council action.*


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 Mary A. Edgar, CMC, Clerk of the Council

Date

## LEGISLATIVE REQUEST REPORT

Expedited Bill 17-03

*Personnel – Retirement – Corrective Amendments*

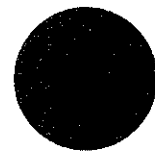
<b>DESCRIPTION:</b>	Amends the Employees' Retirement System (ERS) and the Retirement Savings' Plan (RSP) to include provisions that must be adopted by all qualified plans subject to Internal Revenue Code Section 401(a) and which are the subject of IRS favorable determination letters received by the County. The amendments add provisions inadvertently omitted from Bill 4-03.
<b>PROBLEM:</b>	Under Internal Revenue Code Section 401(b), the Council must adopt legislation to incorporate the amendments subject to the favorable determination letters.
<b>GOALS AND OBJECTIVES:</b>	To retain the benefits of the IRS favorable determination letters.
<b>COORDINATION:</b>	The Board of Investment Trustees and the Office of Human Resources.
<b>FISCAL IMPACT:</b>	See fiscal impact analysis for Bill 4-03.
<b>ECONOMIC IMPACT:</b>	n/a
<b>EVALUATION:</b>	n/a
<b>EXPERIENCE ELSEWHERE:</b>	n/a
<b>SOURCE OF INFORMATION:</b>	Constance Donovan, Office of the County Attorney (240-777-6793) and Eric Wallmark, Office of Human Resources (240-777-5020)
<b>APPLICATION WITHIN MUNICIPALITIES:</b>	n/a
<b>PENALTIES:</b>	n/a

BILL 4-03



MC  
CC  
SBF  
LL  
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ME

OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850



Douglas M. Duncan  
County Executive

001727

MEMORANDUM

March 24, 2003

TO: Michael L. Subin, President  
Montgomery County Council

Disk to Karen P.

FROM: Douglas M. Duncan  
County Executive

SUBJECT: Corrective Amendments to Bill No. 4-03, Personnel - Retirement - Amendments

I am returning unsigned Bill No. 4-03, Personnel - Retirement - Amendments, because certain technical provisions were inadvertently omitted from that legislation. I am, therefore, transmitting for Council action, corrective amendments to Bill 4-03. These amendments add language to Bill 4-03 that had previously been approved by the Internal Revenue Service in favorable determination letters received for both the Employees' Retirement System and the Employees' Retirement Savings Plan.

I hope the Council will act favorably on this legislation in the near future.

DMD:tm

Enclosure

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RECEIVED COUNCIL